

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

KWANG SOOK KIM, M.D.

Case No. 800-2018-040177

**Physician's and Surgeon's
Certificate No. A37552**

Respondent

DECISION

**The attached Stipulated Surrender of License and Disciplinary Order
is hereby adopted as the Decision and Order of the Medical Board of
California, Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on August 27, 2019

IT IS SO ORDERED August 20, 2019.

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
4 State Bar No. 241559
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9403
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2018-040177

14 **KWANG SOOK KIM, M.D.**
15 **9828 GARDEN GROVE BLVD STE 201**
GARDEN GROVE CA 92844-1659

16 **Physician's and Surgeon's Certificate**
17 **No. A 37552**

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Tessa L. Heunis,
26 Deputy Attorney General.

27 2. Kwang Sook Kim, M.D. (Respondent) is representing herself in this proceeding and
28 has chosen not to exercise her right to be represented by counsel.

3. On or about October 31, 1981, the Board issued Physician's and Surgeon's Certificate No. A 37552 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-040177 and until its expiration on January 31, 2019.

JURISDICTION

4. On or about May 8, 2019, Accusation No. 800-2018-040177 was filed before the Board, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on or about May 8, 2019. Respondent timely filed her Notice of Defense, contesting the Accusation. A copy of Accusation No. 800-2018-040177 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and fully understands the charges and allegations in Accusation No. 800-2018-040177. Respondent also has carefully read, and fully understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2018-040177, agrees that cause exists for discipline and hereby surrenders her Physician's and Surgeon's Certificate No. A 37552 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Board “shall delegate to its executive director the authority to adopt a ... stipulation for surrender of a license.”

11. Respondent understands that, by signing this stipulation, she enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of her Physician's and Surgeon's Certificate No. A 37552 without further notice to, or opportunity to be heard by, Respondent.

12. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that she may not withdraw her agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the

1 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this
2 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
3 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
4 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
5 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
6 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
7 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
8 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
9 of any matter or matters related hereto.

10 **ADDITIONAL PROVISIONS**

11 14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
12 herein to be an integrated writing representing the complete, final and exclusive embodiment of the
13 agreements of the parties in the above-entitled matter.

14 15. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
15 Order, including copies of the signatures of the parties, may be used in lieu of original documents
16 and signatures and, further, that such copies shall have the same force and effect as originals.

17 16. In consideration of the foregoing admissions and stipulations, the parties agree the
18 Executive Director of the Board may, without further notice to or opportunity to be heard by
19 Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

20 **ORDER**

21 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 37552, issued
22 to Respondent Kwang Sook Kim, M.D., is surrendered and accepted by the Board.

23 1. The surrender of Respondent's Physician's and Surgeon's Certificate No. A 37552
24 and the acceptance of the surrendered license by the Board shall constitute the imposition of
25 discipline against Respondent. This stipulation constitutes a record of the discipline and shall
26 become a part of Respondent's license history with the Board.

27 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
28 California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2018-040177 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.


5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-040177 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Disciplinary Order. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 37552. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

17/22/19


KWANG SOOK KIM, M.D.
Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: August 5, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General



TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2018-040177

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
4 State Bar No. 241559
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9403
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MAY 8, 2019
BY: [Signature] ANALYST

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 800-2018-040177

15 **Kwang Sook Kim, M.D.**
16 **9828 GARDEN GROVE BLVD., STE. 201**
GARDEN GROVE, CA 92844-1659

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. A 37552,**

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about October 13, 1981, the Board issued Physician's and Surgeon's Certificate
26 No. A 37552 to Kwang Sook Kim, M.D. (Respondent). The Physician's and Surgeon's
27 Certificate was in full force and effect at all times relevant to the charges brought herein, and
28 subsequently expired on January 31, 2019.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“...”

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“...”

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1 “(e) The commission of any act involving dishonesty or corruption which is
2 substantially related to the qualifications, functions, or duties of a physician and surgeon.

3 “(f) Any action or conduct which would have warranted the denial of a certificate.

4 “...”

5 6. Section 2236 of the Code states:

6 “(a) The conviction of any offense substantially related to the qualifications,
7 functions, or duties of a physician and surgeon constitutes unprofessional conduct within
8 the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction
9 shall be conclusive evidence only of the fact that the conviction occurred.

10 “...”

11 “(c) ... The division may inquire into the circumstances surrounding the commission
12 of a crime in order to fix the degree of discipline or to determine if the conviction is of an
13 offense substantially related to the qualifications, functions, or duties of a physician and
14 surgeon.

15 “(d) A plea or verdict of guilty or a conviction after a plea of *nolo contendere* is
16 deemed to be a conviction within the meaning of this section and Section 2236.1. The
17 record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

18 7. Section 2261 of the Code states:

19 “Knowingly making or signing any certificate or other document directly or indirectly
20 related to the practice of medicine or podiatry which falsely represents the existence or
21 nonexistence of a state of facts, constitutes unprofessional conduct.”

22 8. Section 2266 of the Code states:

23 “The failure of a physician and surgeon to maintain adequate and accurate records
24 relating to the provision of services to their patients constitutes unprofessional conduct.”

25 9. Section 802.1 of the Code states:

26 “(a) (1) A physician and surgeon, osteopathic physician and surgeon, a doctor of
27 podiatric medicine, and a physician assistant shall report either of the following to the entity
28 that issued his or her license:

1 “(A) The bringing of an indictment or information charging a felony against the
2 licensee.

3 “(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty
4 or no contest, of any felony or misdemeanor.

5 “(2) The report required by this subdivision shall be made in writing within 30 days
6 of the date of the bringing of the indictment or information or of the conviction.

7 “...”

8 10. Section 493 of the Code states:

9 “Notwithstanding any other provision of law, in a proceeding conducted by a board
10 within the department pursuant to law to deny an application for a license or to suspend or
11 revoke a license or otherwise take disciplinary action against a person who holds a license,
12 upon the ground that the applicant or the licensee has been convicted of a crime
13 substantially related to the qualifications, functions, and duties of the licensee in question,
14 the record of conviction of the crime shall be conclusive evidence of the fact that the
15 conviction occurred, but only of that fact, and the board may inquire into the circumstances
16 surrounding the commission of the crime in order to fix the degree of discipline or to
17 determine if the conviction is substantially related to the qualifications, functions, and
18 duties of the licensee in question.

19 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
20 ‘registration.’”

21 11. Section 118 of the Code states:

22 “...”

23 “(b) The suspension, expiration, or forfeiture by operation of law of a license issued
24 by a board in the department, or its suspension, forfeiture, or cancellation by order of the
25 board or by order of a court of law, or its surrender without the written consent of the board,
26 shall not, during any period in which it may be renewed, restored, reissued, or reinstated,
27 deprive the board of its authority to institute or continue a disciplinary proceeding against

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1 the licensee upon any ground provided by law or to enter an order suspending or revoking
2 the license or otherwise taking disciplinary action against the licensee on any such ground.

3 “(c) As used in this section, ‘board’ includes an individual who is authorized by any
4 provision of this code to issue, suspend, or revoke a license, and ‘license’ includes
5 ‘certificate,’ ‘registration,’ and ‘permit.’”

6 12. Unprofessional conduct under Business and Professions Code section 2234 is conduct
7 which breaches the rules or ethical code of the medical profession, or conduct which is
8 unbecoming to a member in good standing of the medical profession, and which demonstrates an
9 unfitness to practice medicine.¹

10 13. California Code of Regulations, title 16, section 1360, states:

11 “For the purposes of denial, suspension or revocation of a license, certificate or
12 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act
13 shall be considered to be substantially related to the qualifications, functions or duties of a
14 person holding a license, certificate or permit under the Medical Practice Act if to a
15 substantial degree it evidences present or potential unfitness of a person holding a license,
16 certificate or permit to perform the functions authorized by the license, certificate or permit
17 in a manner consistent with the public health, safety or welfare. Such crimes or acts shall
18 include but not be limited to the following: Violating or attempting to violate, directly or
19 indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision
20 of the Medical Practice Act.”

21 **OTHER RELEVANT LEGISLATION**

22 14. Section 24005 of the Welfare and Institutions Code states, in pertinent part:

23 “...
24 “(b) Only licensed medical personnel with family planning skills, knowledge, and
25 competency may provide the full range of family planning medical services covered in [the
26 Family PACT] program.

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28 ¹ *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 “(c) Medi-Cal enrolled providers, as determined by the department, shall be eligible
2 to provide family planning services under the [Family PACT] program when these services
3 are within their scope of practice and licensure. Those clinical providers electing to
4 participate in the program and approved by the department shall provide the full scope of
5 family planning education, counseling, and medical services specified for the program,
6 either directly or by referral, consistent with standards of care issued by the department.

7 “...

8 “(p) Each provider of health care services rendered to any program beneficiary shall
9 keep and maintain records of each service rendered, the beneficiary to whom rendered, the
10 date, and any additional information that the department may by regulation require.
11 Records required to be kept and maintained pursuant to this subdivision shall be retained by
12 the provider for a period of three years from the date the service was rendered.

13 “...”

14 15. Section 14043.1 of the Welfare and Institutions Code states:

15 “As used in this article:

16 “(a) ‘Abuse’ means either of the following:

17 “(1) Practices that are inconsistent with sound fiscal or business practices and result
18 in unnecessary cost to the federal Medicaid and Medicare programs, the Medi-Cal program,
19 another state’s Medicaid program, or other health care programs operated, or financed in
20 whole or in part, by the federal government or a state or local agency in this state or another
21 state.

22 “...

23 “(b) ‘Applicant’ means an individual, ...corporation, institution, or entity, and the
24 officers, directors, owners, managing employees, or agents thereof, that apply to the
25 department for enrollment as a provider in the Medi-Cal program.

26 “(c) ‘Application or application package’ means a completed and signed application
27 form, signed under penalty of perjury or notarized pursuant to Section 14043.25, a

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1 disclosure statement, a provider agreement, and all attachments or changes in the form,
2 statement, or agreement.

3 “(d) ‘Appropriate volume of business’ means a volume that is consistent with the
4 information provided in the application and any supplemental information provided by the
5 applicant or provider, and is of a quality and type that would reasonably be expected based
6 upon the size and type of business operated by the applicant or provider.

7 “(e) ‘Business address’ means the location where an applicant or provider provides
8 services ... to a Medi-Cal beneficiary. A post office box ... is not a business address...

9 “(f) ‘Convicted’ means any of the following:

10 “(1) A judgment of conviction has been entered against an individual or entity by a ...
11 state ... court, regardless of whether there is a post-trial motion, an appeal pending, or the
12 judgment of conviction or other record relating to the criminal conduct has been expunged
13 or otherwise removed.

14 “(2) A ... state ... court has made a finding of guilt against an individual or entity.

15 “(3) A ... state ... court has accepted a plea of guilty or *nolo contendere* by an
16 individual or entity.

17 “(4) An individual or entity has entered into participation in a first offender, deferred
18 adjudication, or other ... arrangement where judgment of conviction has been withheld.

19 “...

20 “(h) ‘Enrolled or enrollment in the Medi-Cal program’ means authorized ... to
21 receive ... reimbursement for the provision of services ... to a Medi-Cal beneficiary.

22 “(i) ‘Fraud’ means an intentional deception or misrepresentation made by a person
23 with the knowledge that the deception could result in some unauthorized benefit to ...
24 herself... It includes any act that constitutes fraud under applicable federal or state law.

25 “(j) ‘Location’ means a street, city, or rural route address or a site or place within a
26 street, city, or rural route address, and the city, county, state, and nine-digit ZIP Code.

27 “(k) ‘Not currently enrolled at the location for which the application is submitted’
28 means either of the following:

1 “(1) The provider is changing location and moving to a different location than that for
2 which the provider was issued a provider number.

3 “(2) The provider is adding a business address.

4 “(l)(1) ...

5 “(2) ‘Individual physician practice’ means a physician and surgeon licensed by the
6 Medical Board of California ... enrolled or enrolling in Medi-Cal as an individual provider
7 who is sole proprietor of his or her practice or is a corporation owned solely by the
8 individual physician and the only physician practitioner is the owner...

9 “(m) ‘Pre-enrollment period’ or ‘pre-enrollment’ includes the period of time during
10 which an application package for enrollment, continued enrollment, or for the addition of or
11 change in a location is pending.

12 “(n) ‘Professionally recognized standards of health care’ means statewide or national
13 standards of care ... that professional peers ... recognize as applying to those peers
14 practicing or providing care within a state...

15 “(o) ‘Provider’ means an individual, ... corporation, ... or entity, and the officers,
16 directors, owners, managing employees, or agents of a ... corporation ... or entity, that
17 provides services, ... directly or indirectly, including all ordering, referring, and
18 prescribing, to a Medi-Cal beneficiary and that has been enrolled in the Medi-Cal program.

19 “(p) ‘Resolution of an investigation for fraud or abuse’ means there is no
20 documentation to indicate either that a charge or accusation has been filed against the
21 provider and either (1) the investigation has not been active at any time during the previous
22 12 months or (2) the department ... has been unable, for a period of 12 months, to contact
23 an investigator or responsible representative of any agency investigating the provider.

24 “...”

25 16. Section 14043.7 of the Welfare and Institutions Code states, in pertinent part:

26 “(a) The department may make unannounced visits to an applicant or to a provider for
27 the purpose of determining whether enrollment, continued enrollment, or certification is
28 warranted, or as necessary for the administration of the Medi-Cal program. If an

1 unannounced site visit is conducted by the department for any enrolled provider, the
2 provider shall permit access to any and all of their provider locations. ... At the time of the
3 visit, the applicant or provider shall be required to demonstrate an established place of
4 business appropriate and adequate for the services billed or claimed to the Medi-Cal
5 program, as relevant to his or her scope of practice, as indicated by, but not limited to, the
6 following:

7 “(1) Being open and available to the general public.

8 “(2) Having regularly established and posted business hours.

9 “(3) Having adequate supplies in stock on the premises.

10 “...

11 “(5) Having the necessary equipment and facilities to carry out day-to-day business
12 for his or her practice.

13 “...

14 (c)(1) Failure to remediate significant discrepancies in information provided to the
15 department by the provider or significant discrepancies that are discovered as a result of an
16 announced or unannounced visit to a provider, for purposes of enrollment, continued
17 enrollment, or certification pursuant to subdivision (a) shall make the provider subject to
18 temporary suspension from the Medi-Cal program, which shall include temporary
19 deactivation of the provider’s number, including all business addresses used by the provider
20 to obtain reimbursement from the Medi-Cal program. The director shall notify in writing
21 the provider of the temporary suspension and deactivation of provider numbers, which shall
22 take effect 15 days from the date of the notification...

23 “...

24 “(4) If a provider has received a site visit pursuant to this section that results in a
25 notice of temporary suspension pursuant to paragraph (1), and the provider fails to
26 remediate the discrepancies identified pursuant to subparagraph (A) of paragraph (2) within
27 the timeframe specified in subparagraph (B) of paragraph (2), the department shall send the
28 provider a notice stating that the provider will be removed from enrollment as a provider in

1 the Medi-Cal program by operation of law based on failure to remediate the discrepancies
2 identified in the notice of temporary suspension.

3 17. Section 14043.36 of the Welfare and Institutions Code states:

4 “(a) The department shall not enroll any applicant that has been convicted of any
5 felony or misdemeanor involving fraud or abuse in any government program, ... or in
6 connection with the interference with or obstruction of any investigation into health care
7 related fraud or abuse ... or that has entered into a settlement in lieu of conviction for fraud
8 or abuse in any government program, within the previous 10 years. In addition, the
9 department may deny enrollment to any applicant that, at the time of application, is under
10 investigation by the department or any state, local, or federal government law enforcement
11 agency for fraud or abuse... If it is discovered that a provider is under investigation by the
12 department or any state, local, or federal government law enforcement agency for fraud or
13 abuse, that provider shall be subject to temporary suspension from the Medi-Cal program,
14 which shall include temporary deactivation of the provider’s number, including all business
15 addresses used by the provider to obtain reimbursement from the Medi-Cal program.

16 “...”

17 18. California Code of Regulations, title 22, section 51000.3, states:

18 ““Business address” means the location where an applicant or provider provides
19 services, ... directly or indirectly, to a Medi-Cal beneficiary...”

20 19. California Code of Regulations, title 22, section 51000.6, states:

21 ““Change of Ownership’ means:

22 “...”

23 “(d) For a lease, the lease of all or part of an applicant’s or provider’s facility
24 constitutes a change of ownership of the leased portion.”

25 20. California Code of Regulations, title 22, section 51000.30, states:

26 “(a) As a condition for enrollment, continued enrollment, or enrollment at a new,
27 additional, or change in location, an applicant or provider shall meet the Standards of
28 Participation specified in Chapter 7 (commencing with Section 14000) and Chapter 8

1 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions
2 Code, and Division 3, Title 22, California Code of Regulations, and:

3 “...

4 “(2) Submit to the Department a completed application package on forms specified in
5 subsection (c), below, Section 51000.35, and Section 51000.45. These forms shall:

6 “(A) Contain complete and accurate information.

7 “(B) Be signed under penalty of perjury by ... the provider seeking continued
8 enrollment, or the provider seeking enrollment at a new, additional, or change in location,
9 as a Medi-Cal provider.

10 “...

11 “(d) The applicant or provider, when required pursuant to subsection (a) through (b)
12 above, shall indicate on the application:

13 “(1) Whether the applicant or provider is requesting enrollment, or continued
14 enrollment, enrollment at a new, additional, or change in location... and the provider’s
15 current provider number(s) or group number(s) if any.

16 “...

17 “(4) The business address of the applicant or provider.

18 “(5) The business telephone number of the applicant or provider.

19 “(6) The pay to address, if different from the business address specified on the
20 application.

21 “(7) The mailing address, if different from the business or pay to addresses.

22 “...

23 “(10) The license or certificate number, or other approval to provide health care
24 services, of the applicant or provider, including those of the rendering provider(s) in a
25 provider group, and the effective and expiration dates. A copy of the valid license,
26 certificate, or other approval, shall be submitted with the application.

27 “(11) The Medicare billing number, if the applicant or provider is enrolled in the
28 Medicare program.

1 “...

2 (13) The provider type of the applicant or provider and, if the applicant or provider is
3 a physician, all of the following:

4 “(A) A listing of his/her specialt(y)ies.

5 “...

6 “(e) The applicant or provider shall comply with all state and local laws and
7 ordinances regarding business licensing and operations, and shall obtain all state and local
8 licenses and permits necessary to provide the services ... being provided ... by the
9 applicant or provider. ... Failure to obtain and maintain all necessary licenses and permits,
10 including but not limited to, a business license, a fictitious name statement ... shall result in
11 the disapproval of an applicant’s application, or the temporary suspension and deactivation
12 of the provider’s number.

13 “...”

14 21. California Code of Regulations, title 22, section 51000.40, states:

15 “(a) A provider ... shall report to the Department within 35 days of any addition or
16 change in the information previously submitted in the application package.

17 “...”

18 22. California Code of Regulations, title 22, section 51000.50, states:

19 “(a) The Department shall review the applicant’s or provider’s completed application
20 package for enrollment, continued enrollment, enrollment at a new, additional, or change in
21 location, or enrollment pursuant to Section 51000.30(b) in the Medi-Cal program. The
22 applicant or provider shall meet the following requirements for enrollment in the Medi-Cal
23 program:

24 “...

25 “(4) The applicant or provider meets all applicable standards for participation in the
26 Medi-Cal program specified in Chapter 7 (commencing with section 14000) and Chapter 8
27 (commencing with 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, and
28 Division 3, Title 22, California Code of Regulations.

1 “(5) The applicant or provider has obtained all state and local licenses, permits, or
2 authorizations necessary to operate a business at the business address for which the
3 application package is submitted and to perform the health care services...

4 “...

5 “(7) No applicant, provider ...has been convicted of any felony, or convicted of any
6 misdemeanor involving fraud or abuse in any government program, ... in connection with
7 the interference with, or obstruction of, any investigation into health care related fraud or
8 abuse, ... or has entered into a settlement in lieu of conviction for fraud or abuse in any
9 government program within ten years of the date of the application package.

10 “(8) No applicant, provider ... shall be under investigation for any healthcare related
11 fraud or abuse at the time of the application for enrollment, continued enrollment,
12 enrollment at a new, additional, or change in location, enrollment pursuant to Section
13 51000.30(b), or during the pre-enrollment period.

14 “(9) The applicant or provider has satisfactorily corrected any discrepancies in the
15 application package or identified in a background check, pre-enrollment inspection or
16 unannounced visit within the time limit specified by the Department. If the applicant or
17 provider cannot satisfactorily correct one or more discrepancies because they occurred in
18 the past, then the application shall be denied.

19 “(10) The applicant or provider has satisfactorily demonstrated to the Department that
20 the business address for which the application package was submitted is an established
21 place of business as specified in Section 51000.60, at the time of application and at the time
22 of any background check, pre-enrollment inspection or unannounced visit.

23 “...

24 “(12) The information submitted by the applicant or provider is accurate and
25 complete.

26 “...

27 “(i) If ... an unannounced visit is conducted pursuant to Welfare and Institutions
28 Code, Section 14043.7, prior to enrollment, continued enrollment, enrollment at a new,

1 additional or change in location, or enrollment pursuant to Section 51000.30(b), the
2 Department shall provide written notice to the applicant or provider of the following:

3 “(1) The applicant or provider is granted provisional provider status for a period of 12
4 months, effective from the date on the notice; or

5 “(2) Discrepancies were found with the information provided by the applicant or
6 provider on the application package that require remediation. The applicant or provider
7 shall have 60 days from the date of the notice to provide the requested information and
8 documentation to the Department in order to remediate the discrepancies...

9 “(3) Discrepancies were found with the information provided by the applicant or
10 provider on the application package that cannot be remediated and the application shall be
11 denied by operation of law pursuant to Welfare and Institutions Code Section 14043.26.

12 “(4) The application is denied based on the applicant’s or provider’s failure to meet
13 the criteria specified in subsection (a), or failure to comply with the requirements specified
14 in this Chapter or its governing statutes.

15 “...

16 “(k) An applicant or provider whose application package has been denied for
17 enrollment, continued enrollment, enrollment at a new, additional, or change in location, or
18 enrollment pursuant to Section 51000.30(b), may appeal the application package denial, in
19 accordance with Welfare and Institutions Code, Section 14043.65.

20 “...

21 “(n) An applicant shall not apply for enrollment within 10 years from the date of the
22 conviction for any offense or for any act included in Welfare and Institutions Code Section
23 14043.36. An applicant or provider whose application package has been denied based on a
24 conviction for any offense or for any act included in Welfare and Institutions Code Section
25 14043.36, shall be barred from reapplying for enrollment in the Medi-Cal program for a
26 period of 10 years from the date of the denial notice or from the date of the final decision
27 following an appeal from that denial.

28 ////

1 “(o) An applicant or provider whose application package has been denied based on
2 two or more convictions for any offense or two or more acts included in Welfare and
3 Institutions Code Section 14043.36, shall be permanently barred from applying for
4 enrollment in the Medi-Cal program.”

5 23. California Code of Regulations, title 22, section 51000.60, states:

6 “(a) The applicant or provider shall have an established place of business appropriate
7 and adequate for the services billed or claimed to the Medi-Cal program as relevant to his
8 or her scope of practice or type of business...”

9 “(b) Failure to have an established place of business at the time of any inspection by
10 the Department for enrollment, continued enrollment, enrollment at a new, additional or
11 change in location, or enrollment pursuant to Section 51000.30(b) warrants denial of an
12 application or shall make a provider subject to temporary suspension from the Medi-Cal
13 program, which shall include temporary deactivation of the provider’s number and each
14 business address used by the provider to provide services, goods, supplies, or merchandise
15 to Medi-Cal beneficiaries, effective 15 days from the date of notice to the provider.

16 “(c) ‘Established place of business’ means a business address of the provider or
17 applicant that meets all of the following criteria:

18 “(1) Is open and conducting business at the time the application is submitted for
19 participation in the Medi-Cal program;

20 “(2) Has the administrative and fiscal foundation to survive as a going concern. This
21 criterion shall be shown by financial records such as a business plan, bank statements, loan
22 documents, promissory notes, invoices, accounts receivable, business tax records, payroll
23 records and contractual agreements;

24 “(3) Has adequate inventory and staff to meet current and anticipated sales and
25 service requirements for its business;

26 “(4) Operates in compliance with Section 51000.30(e);

27 “(5) Has Worker’s Compensation insurance as required by state law;

28 ////

1 “(6) Obtains and maintains, for any individual licensed or certified pursuant to
2 Division 2 (commencing with Section 500) of the Business and Professions Code, ...
3 Professional Liability insurance coverage in an amount not less than \$100,000 per claim,
4 with a minimum annual aggregate of not less than \$300,000, from an authorized insurer
5 pursuant to Section 700 of the Insurance Code;

6 “(7) Has the necessary equipment, office supplies and facilities available to carry out
7 its business, including storage and retrieval of all documentation as required by Section
8 51476;

9 “(8) Has the necessary ... payment mechanisms to process patient billing claims if the
10 applicant or provider is a physician/medical practice; and

11 “...

12 “(A) Is located in a building either owned by the applicant or provider, or the
13 applicant or provider has obtained a signed lease agreement...;

14 “(B) Has regular and permanently posted business hours...;

15 “(C) Is identifiable as a medical/healthcare provider or business, by permanently
16 attached signage that identifies the name of the provider or business as shown on the
17 application ...

18 “(D) Obtains and maintains Liability insurance coverage, that covers premises and
19 operation, in an amount not less than \$100,000 per claim, with a minimum annual
20 aggregate of not less than \$300,000, from an authorized insurer pursuant to Section 700 of
21 the Insurance Code.

22 “...”

23 24. California Code of Regulations, title 22, section 51200, states:

24 “(a) In addition to any other statutory or regulatory conditions for participation in the
25 Medi-Cal program and any federal requirements for participation in Medicaid, as a
26 condition for enrollment, or continued enrollment, an applicant or provider also shall meet
27 the standards specified in this Article, applicable to their provider type, and the
28 requirements specified in Sections 51000.30 through 51000.55. Failure to meet applicable

standards for participation shall result in the denial of the applicant's or provider's application for enrollment, or continued enrollment, as specified in Section 51000.50.

“(b) Any provider who violates any provision of law or regulation that governs the Medi-Cal program shall be subject to temporary or permanent suspension from the Medi-Cal program, as permitted by Section 14123, Welfare and Institutions (W&I) Code.

“(c) All providers shall be subject to temporary suspension ... under any of the following circumstances:

“(1) The provider has failed to disclose all information required in federal Medicaid regulations or any other information required by the Department, or has disclosed false information, as specified in Section 14043.2, W&I Code.

“(2) The provider is discovered to be under investigation for fraud or abuse, as specified in Section 14043.36.

“(3) The provider has failed to remediate discrepancies that are discovered as a result of an unannounced visit to the provider, as specified in Section 14043.7, W&I Code.

“(d) All applicants applying for enrollment, or providers applying for continued enrollment, in the Medi-Cal program shall be certified for participation in the Medicare program of the Federal Social Security Act (Title XVIII), if they provide services that are included in the Medicare scope of benefits and if they provide those services to persons who are eligible beneficiaries of the Medicare program.

“...”

25. California Code of Regulations, title 22, section 51303, states:

“(a) Health care services set forth in this article [Chapter 3, Article 4] and in Chapter 5, Article 4 (commencing with Section 54301 of this title), which are reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain through the diagnosis or treatment of disease, illness or injury are covered by the Medi-Cal program, subject to utilization controls, to the extent specified in this Chapter, Chapter 5, and Chapter 11. Such utilization controls shall take into account those diseases, illnesses, or injuries which require preventive health services or treatment to prevent serious

deterioration of health. Nothing in this section shall preclude payment for family planning services, or for early, periodic screening, diagnosis and treatment services (EPSDT), provided under the Child Health and Disability Prevention (CHDP) Program.

Authorization may only be granted when fully documented medical justification is provided that the services are medically necessary. Services not requiring prior authorization are subject to other utilization controls, as specified in this chapter.

“...”

26. California Code of Regulations, title 22, section 51305, states:

“(a) Outpatient physician services are covered if they are medically necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain, subject to the limitations specified below.

“...”

27. California Code of Regulations, title 22, section 51473, states:

“No provider shall render to any Medi-Cal beneficiary, or submit a claim for reimbursement for, any health care service or services clearly in excess of accepted standards of practice.”

28. California Code of Regulations, title 22, section 51476, states:

“(a) Each provider shall keep, maintain, and have readily retrievable, such records as are necessary to fully disclose the type and extent of services provided to a Medi-Cal beneficiary.

“...”

“(d) Every practitioner who issues prescriptions for Medi-Cal beneficiaries shall maintain, as part of the patient’s chart, records which contain the following for each prescription:

“(1) Name of the patient.

“(2) Date prescribed.

“(3) Name, strength and quantity of the item prescribed.

“(4) Directions for use.

1 “...

2 “(g) A provider shall make available, during regular business hours, all pertinent
3 financial books and all records concerning the provision of health care services to a Medi-
4 Cal beneficiary, and all records required to be made and retained by this section, to any
5 duly authorized representative of the Department acting in the scope and course of
6 employment including, but not limited to, employees of the Attorney General, Medi-Cal
7 Fraud Unit duly authorized and acting within the scope and course of their employment.
8 Failure to produce records may result in sanctions, audit adjustments, or recovery of
9 overpayments, in accordance with Section 51458.1 of this title.”

10 **FACTUAL BACKGROUND**

11 **FAMILY PLANNING, ACCESS, CARE AND TREATMENT (FPACT) PROGRAM**

12 29. The Family Planning, Access, Care and Treatment (FPACT) Program is administered
13 by the California Department of Health Care Services (DHCS), Office of Family Planning (OFP).
14 OFP is responsible for program policy, program monitoring, quality improvement, provider
15 enrollment and program evaluation. The overall goal of FPACT is to ensure that low-income
16 women and men have access to health information, counseling, and family planning services to
17 reduce the likelihood of unintended pregnancy and to maintain optimal reproductive health.

18 30. The FPACT provider network consists of public and private sector clinician
19 providers, throughout California. Solo providers, group providers or primary care clinics, who
20 currently have a National Provider Identifier (NPI), are enrolled in good standing with Medi-Cal,
21 and have the family planning skills, competency and knowledge to provide comprehensive family
22 planning are eligible for enrollment into FPACT.

23 31. A distinction exists between visits to an FPACT provider, and a referral or
24 consultation. Referrals may be made to Medi-Cal consulting clinicians when a covered procedure
25 is outside the technical skill of the FPACT provider, or when there is insufficient volume to
26 ensure and maintain a high skill level of the FPACT provider.

27 32. The FPACT Program may conduct or arrange for compliance reviews and/or audits to
28 be conducted to ensure compliance with Program Standards, regulations and laws. In addition,

1 site reviews may be performed. Follow-up compliance reviews, audits, or site reviews may occur
2 as deemed necessary. Failure to comply will result in suspension and/or disenrollment from the
3 FPACT Program.

4 EVERY WOMAN COUNTS (EWC) PROGRAM

5 33. Every Woman Counts (EWC) is part of the DHCS' Cancer Detection and Treatment
6 Branch (CDTB). EWC provides free breast and cervical cancer screening and diagnostic services
7 to California's underserved populations, and aims to prevent and reduce the devastating effects of
8 cancer through education, early detection, diagnosis, case management, and integrated preventive
9 services.

10 34. The EWC Program is funded by both federal and state dollars.

11 35. As with FPACT, within EWC there is a distinction between the roles and responsibilities
12 of the Primary Care Provider (PCP), and that of the referral provider: PCPs are enrolled in EWC
13 through a Regional Office Clinical Coordinator. Enrollment is based on the need for complete service
14 networks in a geographic area and/or for improved access to care for priority populations. Some
15 PCPs only enroll for breast cancer screening services, while other enrolled PCPs conduct breast
16 and cervical cancer screening services.

17 36. Referral providers receive referrals from EWC-enrolled PCPs to render specialized
18 screening or diagnostic services, including radiologists, surgeons, anesthesiologists and
19 pathologists. They must be a Medi-Cal provider in good standing. Referral providers do not enroll
20 in EWC or sign a provider enrollment agreement.

21 37. Provider site reviews are conducted periodically to assess the provider's success in
22 creating and maintaining systems to enhance screening, follow-up and rescreening of women
23 enrolled in the EWC Program.

24 38. Women may not be enrolled in EWC solely for the purpose of receiving case
25 management services.² The patient must be in need of a clinical service not covered by another

26 ² Case management services (Healthcare Common Procedure Coding System (HCPCS)
27 code T1017) is not a benefit of Medi-Cal programs. For EWC, only one unit per recipient per
28 provider per calendar year is reimbursable, regardless of the time required to complete case
management services. Despite providing a recipient with both breast and cervical cancer

1 program. FPACT women who meet EWC eligibility requirements may utilize the Program for
2 breast and cervical services not covered under FPACT. However, EWC is the payer of last resort,
3 therefore, all FPACT covered services must first be exhausted prior to utilizing Cancer Detection
4 Section (CDS) Program services funding.

5 BILLING FOR FPACT AND EWC SERVICES

6 39. All billing (in both EWC and FPACT) is done by way of Current Procedural
7 Terminology (CPT) codes. CPT is a medical code set that is used to report medical, surgical, and
8 diagnostic procedures and services to entities such as physicians, health insurance companies and
9 accreditation organizations. There are specific CPT codes for specific procedures or types of visits,
10 and separate codes for use by primary providers as opposed to the referral or consulting providers.

11 40. Professional services are those face-to-face services rendered by a physician and
12 reported by a specific CPT code(s). A new patient is one who has not received any professional
13 services from the physician or another physician of the exact same specialty and subspecialty who
14 belongs to the same group practice, within the past three years. An established patient is one who
15 has received professional services from the physician or another physician of the exact same
16 specialty and subspecialty who belongs to the same group practice, within the past three years.

17 41. A consultation is a type of evaluation and management service provided by a
18 physician at the request of another physician or appropriate source to either recommend care for a
19 specific condition or problem or to determine whether to accept responsibility for ongoing
20 management of the patient's entire care or for the care of a specific condition or problem. A
21 "consultation" initiated by a patient and/or family, and not requested by a physician or other
22 appropriate source (eg, physician assistant, nurse practitioner, doctor of chiropractic, physical
23 therapist, occupational therapist, speech-language pathologist, psychologist, social worker,
24 lawyer, or insurance company), is not reported using the consultation codes but may be reported
25 using the office visit, home service, or domiciliary/rest home care codes as appropriate. The
26 written or verbal request for consult may be made by a physician or other appropriate source and

27 _____
28 screening services in the year, the PCP is only eligible for one case management payment per
recipient per year.

1 documented in the patient's medical record by either the consulting or requesting physician or
2 appropriate source. The consultant's opinion and any services that were ordered or performed
3 must also be documented in the patient's medical record and communicated by written report to
4 the requesting physician or other appropriate source. Any specifically identifiable procedure (i.e.,
5 identified with a specific CPT code) performed on or subsequent to the date of the initial
6 consultation should be reported separately. If subsequent to the completion of a consultation the
7 consultant assumes responsibility for management of a portion or all of the patient's condition(s),
8 the appropriate Evaluation and Management services code for the site of service should be
9 reported.

10 42. CPT codes 99202 and 99203 are billing codes applicable to an office or other
11 outpatient visit by a PCP for the evaluation and management of a new patient, with increasing
12 requirements as to length of consultation and complexity of the visit. Medical record and chart
13 documentation must reflect the clinical rationale for providing, ordering or deferring services for
14 clients, including, but not limited to, client assessment, diagnosis, treatment and follow-up.

15 (a) 99202 requires (obtaining) an expanded problem focused history; an expanded
16 problem focused examination; and straightforward medical decision making. Usually, the
17 presenting problems are of low to moderate severity. Physicians typically spend 20 minutes face-
18 to-face with the patient and/or family.

19 (b) 99203 requires a detailed history, a detailed examination, and medical decision
20 making of low complexity. Usually, the presenting problem(s) are of moderate severity.
21 Physicians typically spend 30 minutes face-to-face with the patient and/or family.

22 43. CPT code 99243 is one of the codes used only by referral providers, or physicians (or
23 other providers) who provide "consultations", not PCP's. It is appropriate for a new or
24 established patient, and requires a detailed focused history, a detailed focused examination, and
25 medical decision making of low complexity. These consultations are typically an average of 40
26 minutes.

27 ////

28 ////

EVENTS LEADING TO THE CAUSES FOR DISCIPLINE

44. At all times alleged herein, respondent was a Medi-Cal provider, registered with both the FPACT and EWC programs. The business address which respondent registered with DHCS Provider Enrollment Division (PED) as the address at which she reportedly provided services (and from which she billed) was 11856 Rosecrans Ave., Norwalk, California.

45. On or about October 11, 2013, a Medical Review Branch (MRB) team from DHCS conducted an unannounced site visit at respondent's listed service location in Norwalk. The review team found the premises occupied by a cellphone retail store. No medical services were being provided at that location.

46. On or about October 17, 2013, the MRB team visited a second address listed for respondent, namely, 9636 Garden Grove Blvd., Suite 16, Garden Grove. They found Suite 16 closed, but displaying signage for "O.C. KAHIEC," with subheadings for "WIC,"³ "Healthy Family," and "WME Church." There was no mention of respondent's name, or any indication that the premises were used as an established medical practice.

47. The MRB team contacted respondent by telephone and were told that respondent had retired. When the MRB team called the same number again, this time explaining who they were, respondent identified herself and arranged to meet at the Garden Grove location the following week.

48. On or about October 29, 2013, the MRB team again visited the Garden Grove service location, to meet with respondent. At the time of this visit, a plastic sign with respondent's name (indicating "General Practice") was posted on the door to Suite 16, immediately above the "O.C. KAHIEC" sign. Inside, the MRB found that the premises lacked basic requirements of a clinic rendering FPACT and EWC services, such as restrooms, an autoclave machine for female examination instruments, examination gowns, and biohazard waste disposal.

49. Respondent informed the MRB team that she subleased the office from someone who, in turn, referred patients to respondent. Respondent used the office only three times per month, on one weekday and two Saturdays. Other than this, the office was not open to the public

³ A separate sign indicated that WIC had closed.

1 during regular business hours. Respondent further informed the MRB team that she had not
2 worked out of the Norwalk location for more than two years. She had not notified the DHCS
3 Provider Enrollment Division (PED) of this change of business address, and had continued to bill
4 from the Norwalk location.

5 50. Respondent explained that, when the MRB team had called, she had said she was
6 “retired” since she no longer saw any patients other than Medi-Cal FPACT or EWC patients.
7 Respondent stated that she did her own billing, and used only three CPT codes, namely, 99202,
8 99203, and 99243.

9 51. After reviewing the site and respondent’s medical records, the MRB team concluded
10 that respondent’s medical records contained stereotyped documentation and did not appear to
11 justify the billing. Services reviewed were either not medically indicated, inappropriately billed,
12 or double-billed. For instance, respondent inappropriately billed for “consultation” services when
13 she was both the referring and consulting physician at the same time, she billed for established
14 patients (which pays at a lower rate) by using the higher, “new patient” CPT codes, and she billed
15 excessively by billing for services separately (often claiming through both the EWC and the
16 FPACT programs), where these should have been ‘combined billed’ at a lower cost.

17 52. Consequently, respondent was found not to meet the criteria for an established place
18 of business, nor did she meet participation standards and/or requirements for continued
19 enrollment as a Medi-Cal provider. Respondent’s National Provider Identifier (NPI) number was
20 suspended and the matter was referred to the Office of the Attorney General, Medi-Cal Fraud
21 unit.

22 53. On or about March 7, 2017, in the case entitled *The People of the State of California*
23 *vs. Kwang Sook Kim*, Superior Court of California, County of Orange, Case No. 17CF0621, a
24 felony complaint was filed against respondent, charging her with two felonies, namely Medi-Cal
25 Fraud (Count 1: Welf. & Inst. Code § 14107, subd. (a)(4)), and Grand Theft (Count 2: Pen. Code,
26 § 487, subd. (a)). Restitution was also claimed, in the amount of \$35,210.45.

27 54. On or about September 6, 2017, respondent pled guilty to Count 2, felony Grand
28 Theft. The factual basis of the plea was that “on or about January 2011 to August 2014,

1 [respondent] failed to maintain adequate medical records to substantiate services provided to
2 [respondent's] patients, resulting in an overpayment by the state of California in an amount
3 totaling at least \$35,210.95." On the same date, respondent was convicted on her plea.

4 55. Respondent's plea, as indicated above, was made on terms that included that Count 2
5 would be dismissed at sentencing if respondent completed 100 hours community service,
6 "continuing medical education," and paid restitution in the amount of \$35,210.95 plus \$3,500
7 costs of investigation.

8 56. On or about November 2, 2017, an additional count was added to the Complaint,
9 namely, failure to maintain adequate and accurate records, a misdemeanor violation of Business
10 and Professions Code section 2266, to which respondent pled guilty. The court found that
11 restitution had been paid in full, and granted respondent's motion to withdraw her guilty plea to
12 felony Grand Theft. Counts 1 and 2 were dismissed, and respondent was sentenced to one (1)
13 year of informal probation and payment of various fines and fees.

14 57. Respondent failed to notify the Board of her conviction as required by section 802.1,
15 subdivision (a), of the Code.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Conviction)**

18 58. Respondent Kwang Sook Kim, M.D., is subject to disciplinary action under sections
19 2227 and 2234, as defined by section 2236, of the Code, in that she has been convicted of an
20 offense substantially related to the qualifications, functions, or duties of a physician and surgeon.
21 The circumstances are set forth in paragraphs 29 through 57, above, which are hereby
22 incorporated by reference and realleged as if fully set forth herein.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Dishonesty or Corruption)**

25 59. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
26 defined by sections 2234, subdivision (e), of the Code, in that she committed an act or acts of
27 dishonesty or corruption. The circumstances are set forth in paragraphs 29 through 58, above,
28 which are hereby incorporated by reference and realleged as if fully set forth herein.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(False statements)**

3 60. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
4 defined by section 2261, of the Code, in that she knowingly made or signed any certificate or
5 other document directly or indirectly related to the practice of medicine which falsely represented
6 the existence or nonexistence of a state of facts. The circumstances are set forth in paragraphs 29
7 through 59, above, which are hereby incorporated by reference and realleged as if fully set forth
8 herein.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Failure to Maintain Adequate and Accurate Records)**

11 61. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
12 defined by section 2266, of the Code, in that she failed to maintain adequate and accurate records
13 relating to the provision of services to her patients. The circumstances are set forth in paragraphs
14 29 through 60, above, which are hereby incorporated by reference and realleged as if fully set
15 forth herein.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(General Unprofessional Conduct)**

18 62. Respondent is further subject to disciplinary action under sections 2227 and 2234 of
19 the Code, in that she has engaged in conduct which breaches the rules or ethical code of the
20 medical profession, or conduct that is unbecoming to a member in good standing of the medical
21 profession, and which demonstrates an unfitness to practice medicine, as more particularly
22 generally alleged in paragraphs 29 through 61, above, and also as specifically alleged in
23 paragraph 57, above, all of which are hereby realleged and incorporated by reference as if fully
24 set forth herein.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Medical Board of California issue a decision:

28 ////

- 1 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 37552,
- 2 issued to Respondent Kwang Sook Kim, M.D.;
- 3 2. Revoking, suspending or denying approval of Respondent Kwang Sook Kim, M.D.'s
- 4 authority to supervise physician assistants and advanced practice nurses;
- 5 3. Ordering Respondent Kwang Sook Kim, M.D., if placed on probation, to pay the
- 6 Board the costs of probation monitoring; and
- 7 4. Taking such other and further action as deemed necessary and proper.

8 DATED:

9 May 8, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant